

## **GOVERNANCE OF THE OPERATING COMPANY**

- I. Nonprofit Corporation. The Operating Company would be a nonprofit corporation subject to Indiana's nonprofit corporation statute.
- II. No Members. The Operating Company would have no members. The Board of Directors would elect the directors other than the initial directors.
- III. Initial Board of Directors. The initial Board of Directors of the Operating Company would consist of eleven members selected by the Board of the Foundation; however, at least one Director would be selected from nominees made by each of the following organizations and officeholders:
  - A. The Hamilton County Board of Commissioners;
  - B. The Mayor Carmel;
  - C. The Town Council of Fishers;
  - D. The Mayor of Indianapolis;
  - E. The Governor of the State of Indiana;
  - F. The Board of the Indianapolis Convention and Visitors Bureau;
  - G. The Board of the Hamilton County Convention and Visitors Bureau;
  - H. Earlham College; and
  - I. The Indiana Attorney General.

The Board of the Foundation would select two of its members to fill the remaining two directorships.

- IV. Staggered Terms. The initial terms of the Directors of the Operating Company would be staggered, so that the terms of no more than three directors would expire in any year. After the initial term, each Director would serve for a term of four years.
- V. Future Board of Directors. The initial Board of Directors would have the power to increase or decrease the number of members of the Board of Directors and fill any vacancies created by increasing the number of Directors or by the resignation, death or removal of a Director. The initial Code of By-

Laws would contain no requirement that any members of the Board (other than the initial members) be nominated or selected by any of the organizations or officeholders that selected the initial Board, except that Earlham College would have the right to continue to nominate a representative to serve on the Board. However, the initial Board and any subsequent Board could, if it wished, amend the By-Laws to require nominees from certain organizations or officeholders.

- V. Benefits of Governance Structure. The benefits of this governance structure are as follows:
- A. Local organizations will be accorded a substantial role in selecting the initial board, thereby improving the possibility of their support and decreasing the risk of their criticism of the outcome.
  - B. The Operating Company can establish and fill a Board of Directors in a way that can enhance its fundraising ability.
  - C. The Board can increase (or decrease) in size to meet its future needs.
  - D. A majority of the appointments to the Board will not be made by any one entity or agency (that is, not the Attorney General, not the Operating Company and not Earlham).
  - E. A Board that is focused solely on the Museum's needs will govern the Operating Company.
  - F. Earlham can continue to monitor closely the implementation of Mr. Lilly's wishes with respect to the Museum through its representation on the Board of the Foundation and the Operating Company.
  - G. Through its representation on the Board of the Operating Company, Earlham can continue to influence decisions affecting the Museum's day-to-day operations.
  - H. The staggered terms will ensure continuity as directors move on and off the Board.